

REMARKS

Applicant's attorney wishes to thank Examiner Ryckman for the careful consideration given this case and the courteous interview of December 23, 2008. During the interview, Applicant's attorney and the Examiner discussed Applicant's claimed needle trap mechanism in comparison to the device of Hinchliffe. In particular, Applicant's attorney noted that Hinchliffe fails to describe a device in which no more than the tip of the needles is brought into the cannula. The Examiner suggested that she would look favorably on claim amendments which clarify that the entirety of the angled needles are drawn into the cannula and not just the needle tips. Accordingly, independent claims 1 and 16 have been amended to recite that the needle tips and angled needles are drawn into the cannula. Furthermore, as suggested by the Examiner, Applicant's attorney has amended claims 1 and 16 to clarify that the suture ends remain attached to the angled needles as the angled needles are drawn into the cannula. Finally, independent claim 1 has been amended to clarify the needle trap mechanism, which is now described as drawing the angled needles and needle tips proximately into the lumen, which causes "said angled needles to dislodge from a needle holder arms and advance upwardly through the cannula," to further distinguish the pending claims from Hinchliffe and Klein.

Claims 1-3, and 7-16 are pending in this application. Claims 1, 10 and 16 have been amended, and claim 5 has been cancelled. Support for all amendments can be found in the specification as originally filed, for example, in paragraphs [0031] and [0037] and Figs. 2 and 7. Accordingly, no new matter has been added.

35 U.S.C. § 102(b)

Claims 1-3, 5, 7-9 and 14-16 are again rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,586,986 to Hinchliffe (hereinafter "Hinchliffe"). The Examiner

alleges that the device of Hinchliffe meets all of the limitations presented in the identified claims. Applicant respectfully disagrees.

As discussed during the interview described above, Hinchliffe fails to teach or fairly suggest a needle trap mechanism in which both the needle tips and the needles are drawn into the cannula as recited in amended independent claims 1 and 16. Moreover, Hinchliffe fails to describe a needle trap mechanism in which the needles and needle tips are drawn proximally into the lumen of the cannula “causing the angled needles to dislodge from the needle holder arms and advance upwardly through the cannula” as recited in amended independent claims 1 and 16, most notably, because in every embodiment described in Hinchliffe, the needles become dislodged when the needle holder arms retract moving distally, away from the cannula and not “proximally into” or “upwardly through” the cannula as claimed. For at least these reasons, Hinchliffe fails to describe each and every element of amended independent claims 1 and 16.

Claims 2, 3, 7-9, 14 and 15 either directly or indirectly depend from and further limitations to amended independent claim 1 and are allowable for at least the same reasons as amended independent claim 1. Accordingly, reconsideration and withdrawal of the Examiner’s rejection is respectfully requested.

35 U.S.C. § 103

Claims 10-12 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Hinchliffe in view of U.S. Patent No. 5,860,991 to Klein et al. (hereinafter “Klein”). The Examiner concedes that Hinchliffe fails to teach or suggest a needle trap mechanism that includes a cylindrical sleeve axially mounted about said connecting rod, but asserts that the Klein teaches such a needle trap mechanism. Applicant respectfully disagrees.

Neither Hinchliffe nor Klein teach or fairly suggest a mechanism that is operative to draw the needles and needle tips “proximally into the lumen of the cannula” which causes the “needles to dislodge from the needle holder arms and advance upwardly through the cannula” as recited in amended independent claim 1. Rather, Klein, like Hinchliffe as described above, describes a mechanism in which the needle holder moves distally, away from the shaft to release the needles (col. 8, lns. 14-19). Therefore, neither of the cited references teach or suggest a needle trap mechanism that both remove the needles from the needle holder arms or needle holder and draw the needles “proximally” or “upwardly” through the cannula as recited in amended independent claim 1.

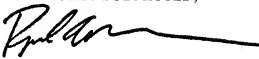
Claims 10-12 either directly or indirectly depend from and add further limitations to amended independent claim 1 and are allowable for at least the same reasons as amended independent claim 1. Accordingly, reconsideration and withdrawal of the Examiner's rejection are respectfully requested.

CONCLUSION

In view of the amendments and remarks presented hereinabove, Applicant submits that the pending claims are in condition for allowance and respectfully request that they be passed to issue. Should the Examiner have any questions or comments, or need any additional information from Applicant's attorney, she is invited to contact the undersigned at her convenience.

In the event that any additional fees are required with this submission, the Commissioner is hereby authorized to charge or credit such fees to Deposit Account No. 50-0436.

RESPECTFULLY SUBMITTED,


By: _____
Raymond A. Miller
Reg. No. 42,891

PEPPER HAMILTON LLP
One Mellon Center, 50th Floor
500 Grant Street
Pittsburgh, PA 15219
(412) 454-5000 - Telephone
(412) 281-0717 - Facsimile
Date: December 29, 2008